

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DEMETRIUS BROWN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 04-379E
	)	
U.S. JUSTICE DEPARTMENT,	)	JUDGE MCLAUGHLIN
BUREAU OF PRISONS, FCI MCKEAN	)	MAGISTRATE JUDGE BAXTER
WARDEN JOHN J. LAMANNA,	)	
REGIONAL DIRECTOR D. SCOTT	)	Electronically Filed
DODRILL, MEDICAL DIRECTOR,	)	
DIRECTOR HARLEY G. LAPPIN,	)	
	)	
Defendants.	)	

**UNITED STATES' OPPOSITION TO PLAINTIFF'S PETITION TO EXTEND TIME  
TO EFFECT NEW AND PERSONAL SERVICE UPON DEFENDANT**

Pursuant to this Court's text Order dated January 17, 2006, defendant the United States of America, by its undersigned counsel, files this Opposition to Plaintiff's Petition to Extend Time to Effect New and Personal Service Upon Defendant, and in support thereof states as follows:

1. In his Petition to Extend Time to Effect New and Personal Service Upon Defendant, *pro se* prisoner Demetrius Brown appears to argue that the Court erred in ordering the United States Marshals Service to mail a copy of plaintiff's summons and complaint to the United States Attorney's Office. According to plaintiff's reading of Rule 4(i)(1)(A) of the Federal Rules of Civil Procedure, the Marshals Service must make personal service of the United States Attorney. Plaintiff therefore requests additional time to effectuate such service. Plaintiff's petition should be denied, however, because the United States has already responded substantively to plaintiff's Complaint and Amended Complaint.

2. Although it appears that the United States Attorney's Office was not properly served by certified mail with a copy of the summons and complaint, as required by Fed. R. Civ. P. 4(i)(1)(A), the United States responded to the Complaint and Amended Complaint in this limited instance because plaintiff properly served the United States Attorney General (see docket no. 41), the United States Department of Justice (see docket no. 43), the Federal Bureau of Prisons (see docket no. 44) and all but one of the individual defendants named in this case (see docket nos. 42, 45 and 15).

3. Defendant has not contested service of process. On January 3, 2006, the United States filed a Motion to Substitute Party, as well as a Motion to Dismiss and/or Motion for Summary Judgment, and a Motion to Strike Demand for Trial by Jury. The United States' filings do not argue for dismissal based on insufficient service or lack of personal jurisdiction.

4. Accordingly, plaintiff's petition should be denied as moot.

Respectfully submitted,

MARY BETH BUCHANAN  
United States Attorney

/s/ Megan E. Farrell  
MEGAN E. FARRELL  
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PA ID # 76972

Counsel for the United States of America

Dated: January 19, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of January, 2006, a true and correct copy of the within United States' Opposition to Plaintiff's Petition to Extend Time to Effect New and Personal Service Upon Defendant was served via first-class mail upon the following:

Demetrius Brown  
#21534-039  
FCI Ray Brook  
P.O. Box 9001  
Raybrook, NY 12977

/s/ Megan E. Farrell  
MEGAN E. FARRELL  
Assistant U.S. Attorney